IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE Dr. JUSTICE G.YETHIRAJULU
WRIT PETITION No. 16629 of 2004

Between:
A.Babu S/o.Late A.Appavu Naicker
Aged 37 years, Asst.Artist,
T.T.D. Press R/o. D.No.9-153
Vaniiyar Block, Ghittoor.

..... PETITIONER

AND

1 Tirumala Tirupathi Devasthnams Rep. by its Executive Officer, Tirupathi.
2 Special Grade Deputy Executive Officer (G) Tirumala Tirupathi Devasthnams, Tirupathi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus, or any other appropriate writ, order or direction, declaring the Memo issued by the 1st respondent in Roc.No.DA1/9216/2004 dt.9.9.2004 is illegal, arbitrary, unconstitutional and consequently direct the respondents to reinstate the petitioner into service and pass.

Counsel for the Petitioner: MR.P.GOVIND REDDY

Counsel for the Respondents: MR.P.SURESH REDDY

The Court at the admission stage made the following:

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ORDER:

The petitioner is working as an Assistant Artist in the respondent Devasthanams. A crime has been registered against him for the offences under Sections 494 and 498-A of the Indian Penal Code at the instance of his wife on 04.11.2003. The petitioner was arrested by the concerned police on 05.11.2003 and he was in judicial custody from 05.11.2003 to 10.11.2003.

2. The grievance of the petitioner is that the respondent on the ground that the petitioner was detained in jail for more than 48 hours, passed an order on 09-09-2004 keeping him under suspension with effect from 05.11.2003 as per Rule 8 (2) (a) of the CCA Rules, 1991.

3. The petitioner contends that the crime in which he was involved has nothing to do with his official functions and it was not committed while discharging the official duties. Therefore, he approached this Court through this Writ Petition, requesting to set aside the orders of suspension, dated 09-09-2004 by declaring the said order as illegal, arbitrary and violative of Article 21 of the Constitution of India.

4. The learned counsel for the respondent submits that the suspension order was not only in pursuance of the detention of the petitioner in jail for more than 48 hours, but also in contemplation of disciplinary action against him. But he did not place any material to

show whether the proposed disciplinary action is in respect of any other misconduct attributed to the petitioner.

5. In the light of the facts and circumstances explained by the petitioner and also in view of the fact that the offence, alleged to be committed by the petitioner, has nothing to do with the discharge of his official duties, it is not desirable to continue him under suspension.

6. For the aforementioned reasons, the Writ Petition is allowed, the order of suspension shall be raised with immediate effect and he shall be allowed to resume to duty, subject to the result of the enquiry, if any, in connection with the alleged crime. No order as to costs.

dsr/svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1. The Executive Officer,
   Tirumala Tirupathi Devasthnams,Tirupathi

2. The Special Grade Deputy Executive Officer (G)
   Tirumala Tirupathi Devasthnams, Tirupathi

3. Two CD copies.